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JUL 05 2005

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

In re Application of:  
Georgene M NIELSON  
Application No. 09/560,294  
Filed: April 24, 2000  
For: SYSTEM FOR LOAD BALANCING  
BASED ON CLASS OF SERVICE FOR  
WIRELESS COMMUNICATION NETWORKS

DECISION  
ON PETITION

This is a response to the petition to withdraw holding of abandonment, filed December 23, 2004.

*The petition is **granted**.*

This application became abandoned for failure to timely file a response to the Office action mailed August 14, 2002 which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment was mailed on December 14, 2004.


Petitioner alleges to have timely filed a response to the Office action on October 22, 2002. To support this position, Petitioner has included with the instant petition a copy of the response bearing a proper certificate of facsimile transmission with a transmission date of October 22, 2002. Also included with the petition is a copy of an Auto-Reply Facsimile Transmission indicating that an 11 page document from Petitioner was received in the U.S. Patent and Trademark Office on October 22, 2002.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application will be forwarded to the Technology Center's technical support staff for entry of the response. From there, the file will be forwarded to the examiner for consideration in due course.

  
Doris To  
Special Program Examiner  
Technology Center 2600  
Communications